IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5793 OF 2005

Janardhan C. Gawand)..Petitioner

Versus

The Raigad District Central Co-op. Bank Ltd. and others)..Respondents

Mr.K.P. Anilkumar for the Petitioner.

Mr.C.G. Gavnekar for Respondent Nos.1 and 2.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 8TH SEPTEMBER 2005

P.C.:

. The order dated 16th July 2005 passed below Exhibit U-2 in Complaint (ULP) No.165 of 2005 by the Industrial Court, Thane is impugned in the present Writ Petition. The Complaint has been filed under Items 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "the Act"). According to the Complainant i.e. the Petitioner herein, an enquiry has been instituted against him where an outsider has been appointed as an Enquiry Officer. The representative of the Bank and the Enquiry Officer are legally trained people. The Petitioner, who the Bank claims was appointed as a Branch Manager, has committed certain acts of misconduct. An enquiry has been instituted and he is required to defend himself either by

appointing a co-employee as his representative or on his own. He contends that he may be allowed an Advocate's assistance at the enquiry since the misconduct alleged against him is serious. The Bank Rules in this behalf are silent. The Industrial Court in an interim relief application filed for appointment of an Advocate has rejected it on the ground that no case has been made out. The main Complaint itself is for a declaration that an unfair labour practice has been committed by the employer Bank. In these circumstances, it can hardly be said that the Industrial Court was wrong in refusing the permission of an Advocate at the interim stage. Furthermore, the judgments which have been considered by the Industrial Court in no way support the case of the Petitioner that he would be entitled to be represented by an Advocate. The Petitioner is a Branch Manager and the charge levelled against him is in respect of opening bank accounts in violation of the Bank's rules and procedure. In such circumstances, I do not see any reason to differ from the findings of the Industrial Court.

2. Besides this, an important issue which is required to be considered is whether the Petitioner is at all a "workman" entitled to any relief under the Act. Unless this is considered, no further reliefs can be given to the Petitioner.

3. Petition rejected.